

REMARKS

Claims 11-19 are pending in the present application. By this amendment, claims 11 and 16 have been amended to include elements of cancelled claim 20. Additionally, claim 18 has been amended to correct its dependency. Claims 11-16 and 19 were rejected and claim 18 was objected to. The Applicants respectfully request reconsideration of the rejections and objections based on the following comments.

Figure 2 was objected to based on the assertion that this drawing should include the label "prior art." The proposed drawing correction submitted herewith is believed to address and obviate this objection.

Claim 18 was objected to based on its dependency. The amendment to this claim herein is believed to obviate this objection.

Claims 11, 13, 16 and 20 were rejected under 35 U.S.C. §102(b) as being anticipated by Rohani et al. (U.S. Patent No. 5,390,166). The Applicants respectfully traverse this rejection for the following reasons.

The Office Action asserts that Rohani discloses all of the elements of the above-enumerated claims. The Applicants respectfully disagree with this assertion. Specifically with respect to independent claims 11 and 16, Rohani fails to teach or suggest that time duration of an inactive time slot shorter than that of an active time slot. Indeed, Figure 4 of Rohani et al. graphically illustrates that the time slots 41-48 in frame 40 are all of equal time periods. Accordingly, the Applicants respectfully submit that Rohani et al. contains no teaching or suggestion of the time duration of an inactive time slot being shorter than that of an active time slot as featured in independent claims 11 and 16. Accordingly, the Applicants request that this rejection be withdrawn accordingly. With respect to dependent claim 13, this claim is submitted to be allowable at least by virtue of its dependency on independent claim 11.

Claims 12, 15, 17, and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rohani in view of Kockmann et al. (U.S. Patent No. 6,434,183). Although the Applicants believe that this combination does not render the claims obvious, without further commenting on the merits of this rejection, the Applicants respectfully traverse this rejection and submit that Kockmann is not prior art. Specifically, this reference is disqualified as prior art under 35 U.S.C. §103(c) because it shares common ownership with the present applications. In accordance with

M.P.E.P. § 706.02(1)2), ¶ II., a separate piece of paper containing a statement of common ownership is provided herewith.

Additionally, Kockmann is not available under either 102(e)/103 or 102(a)/103. In the case of 102(e)/103, the Kockmann reference has a Section 371 date of May 9, 2000 based on an international application filed on August 14, 1997 (that is, prior to November 29, 2000). Under the doctrine espoused in *re Hilmer*, 359 F.2d859, 149 U.S.P.Q. 480 (C.C.P.A. 1966), the present application is entitled to priority to International Application PCT/DE97/01315 filed June 24, 1997. Accordingly, the priority date of the present application is prior to the date when the 371 requirements for the Kockmann application were completed (i.e., May 9, 2000). Accordingly, Kockmann is not prior art under 35 U.S.C. §102(e)/103. (See M.P.E.P. Section 2136.03).

Additionally, Kockmann is not available as prior art under §102(a) because this patent issued August 13, 2002, which is after both the U.S. filing date of the present application as well as the priority date. Accordingly, the Applicants respectfully submit that the rejection of claims 12, 15, 17, and 19 under 35 U.S.C. §103(a) as being unpatentable over Rohani in view of Kockmann et al. is improper and should be withdrawn.

Claims 14 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rohani in view of Sakoda et al. (published application number U.S. 2001/0043583). The Applicants believe that this rejection is without merit. Nonetheless, without further commenting on the rejection, the Applicants respectfully submit that Sakoda is not valid prior art. That is, Sakoda was published November 22, 2001, which is after the filing date of the present application and has a filing date (i.e., November 7, 1997) that is subsequent to the priority date accorded to the present application (i.e., August 14, 1997). Accordingly, the Applicants submit that the rejection of claims 14 and 18 under §103(a) as being unpatentable over Rohani in view of Sakoda is improper and should be withdrawn, accordingly.

In light of the foregoing comments, the Applicants respectfully submit that the application is condition for allowance and request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Dated: August 25, 2003



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STATEMENT CONCERNING COMMON OWNERSHIP

Applications and references (whether patents, patent applications, patent application publications, etc.) will be considered by the examiner to be owned by, or subject to an obligation of assignment to the same person, at the time the invention was made, if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person. The present application and Kockmann et al. (U.S. Patent No. 6,434,183) are both subject to an obligation of assignment to Siemens Aktiengesellschaft.

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